

Reprint 2/9

HOUSE FILE 2380

FEB 24 1982

BY COMMITTEE ON COMMERCE

Place On Calendar

(Formerly Study Bill 687)

Passed House, Date 3-5-82 (p. 688) Passed Senate, Date 4-2-82 (p. 1003)

Vote: Ayes 93 Nays 0 Vote: Ayes 47 Nays 0

Approved April 19, 1982

A BILL FOR

5:86 1 An Act providing the Iowa insurance guaranty association
2 early access to assets of an insolvent insurer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2380

H-5286

1 Amend House File 2380 as follows:
2 1. Page 2, by inserting after line 14, the following:
3 "Sec. 515B.2. Section 515B.2, subsection 5, is amended
4 to read as follows:
5 5. "Insolvent insurer" means an insurer against
6 which on a final order of liquidation with a finding of
7 insolvency has been entered on or after July 1, 1980,
8 by a court of competent jurisdiction of this state or
9 of the state of the insurer's domicile, and the order
10 of liquidation has not been stayed or been the subject
11 of a writ of supersedeas or other comparable order."
12 2. Title page, by striking lines 1 and 2 and
13 inserting in lieu thereof the following: "An Act
14 relating to insolvent insurers."

H-5286 FILED MARCH 2, 1982

BY HALVORSON of Clayton

Adopted 3/5 (p. 688)

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1 Section 1. Chapter 515B, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. EARLY ACCESS TO ASSETS.

4 1. Within one hundred twenty days of the issuance of a
5 final order of liquidation with a finding of insolvency of
6 a company by a court of competent jurisdiction of this state,
7 the receiver shall make application to the court for approval
8 of a proposal to disburse assets out of such company's
9 marshaled assets from time to time as such assets become
10 available to the Iowa insurance guaranty association and to
11 any entity or person performing a similar function in another
12 state. The Iowa insurance guaranty association and any entity
13 or person performing a similar function in other states shall
14 hereinafter be referred to collectively as the associations.

15 2. Such proposal shall at least include provisions for:

16 a. Reserving amounts for the payment of expenses of
17 administration and claims falling within priorities higher
18 than that of the associations.

19 b. Disbursement of the assets marshaled to date and subse-
20 quent disbursements of assets as they become available.

21 c. Equitable allocation of disbursements to each of the
22 associations entitled thereto for the purpose of paying covered
23 claims and claim handling expense.

24 d. The securing by the receiver from each of the associa-
25 tions entitled to disbursements of an agreement to return
26 to the receiver such assets previously disbursed as may be
27 required to pay claims of secured creditors and claims falling
28 within priorities higher than that of the associations in
29 accordance with such priorities. No bond shall be required
30 of any such association.

31 3. The receiver's proposal shall provide for disbursements
32 to the association in amounts estimated to be at least equal
33 to the covered claim payments and claim handling expense made
34 or to be made thereby for which such associations could assert
35 a claim against the receiver, and shall further provide that

1 if the assets available for disbursement from time to time
2 do not equal or exceed the amount of such claim payments and
3 claim handling expense made or to be made by the association
4 then disbursements shall be in the amount of available assets.

5 4. Notice of such application shall be given to the
6 associations in and to the commissioners of insurance of each
7 of the states. Any such notice shall be deemed to have been
8 given when deposited in the United States certified mail,
9 first class postage prepaid, at least thirty days prior to
10 submission of such application to the court. Action on the
11 application may be taken by the court provided the above
12 required notice has been given, and provided further that
13 the receiver's proposal complies with paragraphs a and d of
14 subsection 2 of this section.

15 EXPLANATION

16 This bill provides that within 120 days of a final
17 determination of insolvency of a property-casualty insurance
18 company, the receiver shall make application for court approval
19 of a proposal for the disbursement of the company's assets
20 to the Iowa insurance guaranty association and similar
21 associations in other states. The proposal shall include
22 provisions for: Reserving amounts for the payment of
23 administrative expenses and those claims having higher
24 priorities than the associations; for the disbursement of
25 assets available presently and in the future; for the equitable
26 allocation of the assets among the associations so entitled;
27 for the securing of an agreement from each association to
28 return assets previously dispersed by operation of this
29 legislation as may be required to pay claims falling within
30 priorities higher than that of the associations. The
31 receiver's proposal shall provide for disbursements to the
32 associations in amounts estimated at least equal to the claims
33 for which the associations could assert a claim against the
34 receiver. Notice of the receiver's application to court shall
35 be given to the associations and the insurance commissioners
36 of each state.

HOUSE FILE 2380 *2/10*
Do Pass 3/22 (p. 863)
Commerce
DeKoster Chair
Comito
Rush

HOUSE FILE 2380

BY COMMITTEE ON COMMERCE

(As Amended and Passed by the House)

Passed House, Date 3-5-82 (p. 688) Passed Senate, Date 4-2-82 (p. 1003)

Vote: Ayes 73 Nays 0 Vote: Ayes 47 Nays 0

Approved April 19, 1982

A BILL FOR

1 An Act relating to insolvent insurers.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Chapter 515B, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. EARLY ACCESS TO ASSETS.

4 1. Within one hundred twenty days of the issuance of a
5 final order of liquidation with a finding of insolvency of
6 a company by a court of competent jurisdiction of this state,
7 the receiver shall make application to the court for approval
8 of a proposal to disburse assets out of such company's
9 marshaled assets from time to time as such assets become
10 available to the Iowa insurance guaranty association and to
11 any entity or person performing a similar function in another
12 state. The Iowa insurance guaranty association and any entity
13 or person performing a similar function in other states shall
14 hereinafter be referred to collectively as the associations.

15 2. Such proposal shall at least include provisions for:

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17 administration and claims falling within priorities higher
18 than that of the associations.

19 b. Disbursement of the assets marshaled to date and subse-
20 quent disbursements of assets as they become available.

21 c. Equitable allocation of disbursements to each of the
22 associations entitled thereto for the purpose of paying covered
23 claims and claim handling expense.

24 d. The securing by the receiver from each of the associa-
25 tions entitled to disbursements of an agreement to return
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35 a claim against the receiver, and shall further provide that

1 if the assets available for disbursement from time to time
2 do not equal or exceed the amount of such claim payments and
3 claim handling expense made or to be made by the association
4 then disbursements shall be in the amount of available assets.

5 4. Notice of such application shall be given to the
6 associations in and to the commissioners of insurance of each
7 of the states. Any such notice shall be deemed to have been
8 given when deposited in the United States certified mail,
9 first class postage prepaid, at least thirty days prior to
10 submission of such application to the court. Action on the
11 application may be taken by the court provided the above
12 required notice has been given, and provided further that
13 the receiver's proposal complies with paragraphs a and d of
14 subsection 2 of this section.

15 Sec. 2. Section 515B.2, subsection 5, is amended to read
16 as follows:

17 5. "Insolvent insurer" means an insurer against which
18 an a final order of liquidation with a finding of insolvency
19 has been entered on or after July 1, 1980, by a court of
20 competent jurisdiction of this state or of the state of the
21 insurer's domicile, and the order of liquidation has not been
22 stayed or been the subject of a writ of supersedeas or other
23 comparable order.

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HOUSE FILE 2380

AN ACT
RELATING TO INSOLVENT INSURERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 515B, Code 1981, is amended by adding the following new section:

NEW SECTION. EARLY ACCESS TO ASSETS.

1. Within one hundred twenty days of the issuance of a final order of liquidation with a finding of insolvency of a company by a court of competent jurisdiction of this state the receiver shall make application to the court for approval of a proposal to disburse assets out of such company's marshaled assets from time to time as such assets become available to the Iowa insurance guaranty association and to any entity or person performing a similar function in another state. The Iowa insurance guaranty association and any entity or person performing a similar function in other states shall hereinafter be referred to collectively as the associations.

2. Such proposal shall at least include provisions for:

a. Reserving amounts for the payment of expenses of administration and claims falling within priorities higher than that of the associations.

b. Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

c. Equitable allocation of disbursements to each of the associations entitled thereto for the purpose of paying covered claims and claim handling expense.

d. The securing by the receiver from each of the associations entitled to disbursements of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within priorities higher than that of the associations in accordance with such priorities. No bond shall be required of any such association.

3. The receiver's proposal shall provide for disbursements to the association in amounts estimated to be at least equal to the covered claim payments and claim handling expense made or to be made thereby for which such associations could assert a claim against the receiver, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such claim payments and claim handling expense made or to be made by the association then disbursements shall be in the amount of available assets.

4. Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mail, first class postage prepaid, at least thirty days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given, and provided further that the receiver's proposal complies with paragraphs a and d of subsection 2 of this section.

Sec. 2. Section 515B 2, subsection 5, Code 1981, is amended to read as follows:

5. "Insolvent insurer" means an insurer against which an final order of liquidation with a finding of insolvency has been entered on or after July 1, 1980, by a court of

competent jurisdiction of this state or of the state of the insurer's domicile, ~~and the order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.~~

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2380, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved April 19, 1982

ROBERT D. RAY
Governor